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Attorneys for Plaintiff Kount Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

KOUNT INC., a Delaware corporation,

Case No. _____

Plaintiff,

**COMPLAINT FOR PATENT
INFRINGEMENT**

v.

DEMAND FOR JURY TRIAL

IOVATION INC., a Delaware
corporation,

Defendant.

For its complaint against defendant iovation Inc. (“iovation”), plaintiff Kount Inc.

(“Kount”) alleges:

PARTIES

1. Kount is a Delaware corporation with its principal place of business in Boise, Idaho.

2. iovation is a Delaware corporation with its principal place of business in Portland, Oregon.

JURISDICTION AND VENUE

3. This is an action for patent infringement under 35 USC § 271, *et seq.* This Court has original jurisdiction over Kount's patent infringement claims. 28 USC § 1331.

4. This Court also has subject matter jurisdiction under 28 USC § 1332(a) because it is a civil action "between citizens of different States and in which citizens or subjects of a foreign state are additional parties," and because the amount in controversy exceeds \$75,000, exclusive of interest and costs.

5. This Court has personal jurisdiction over iovation because its principal place of business is in the State of Oregon, and Kount is informed and believes and on that basis alleges that many of the transactions underlying this lawsuit have taken place in Oregon.

6. Venue is proper in this district under 28 USC § 1400(b).

GENERAL ALLEGATIONS

7. Kount is the assignee of United States Patent No. US 7,330,871 B2 (the "871 Patent"), which issued on February 12, 2008, entitled "ONLINE MACHINE DATA COLLECTION AND ARCHIVING PROCESS." A copy of the '871 Patent is attached hereto as Exhibit A.

8. The '871 Patent is directed to an invention relating to online identity detection techniques to combat online fraud.

9. The '871 Patent's Abstract describes the invention as follows:

An online machine data collection and archiving process generates a machine data profile of a customer computer accessing a transaction form of a merchant web site and links the machine data profile and a transaction record with customer identifying information using a unique transaction identification string. The process preferably captures parameters typically communicated as a part of web accesses, such as an IP address, an HTTP header, and cookie information. The process additionally causes the customer computer to process self-identification routines by processing coding within the merchant transaction form, the self-identification routines yielding further profile parameters. The process further includes a routine for bypassing an intervening proxy to the merchant web site to reveal the true IP address of the customer computer. (Ex. A at 1.)

10. iovation manufactures, offers for sale and/or sells products and/or services called ReputationManager, Device Reputation Authority and ReputationShield™.

11. In marketing materials for ReputationManager, iovation describes it as a "Software as a Service (SaaS) solution that combines iovation's powerful device identification and reputation management platform to protect online businesses against fraud and abuse. Using the reputation of Internet-enabled devices, Reputation Manager exposes cybercriminals and abusers so they can no longer hide behind multiple identities once their device has been associated with fraud or abuse in iovation's device reputation repository."

12. iovation advertises that one of the capabilities of ReputationManager is ReputationShield™ Device Identification, which iovation states "offers the industry's most accurate device identification/fingerprinting by combining device parameters and sophisticated pattern matching techniques."

13. iovation advertises that its Device Reputation Authority (DRA) is a patented platform that forms the foundation of iovation's online fraud and abuse management, and multi-factor authentication services. The DRA includes a highly scalable repository where

the unique ID of millions of Internet-enabled devices is maintained using iovation ReputationShield™ device identification techniques.

FIRST CAUSE OF ACTION

(Patent Infringement)

14. Kount incorporates by reference the allegations set forth in paragraphs 1 through 13 above as if fully set forth herein.

15. Kount owns the ‘871 Patent.

16. iovation has sold and/or offered to sell products falling within the scope of one or more of the claims of the ‘871 Patent in violation of Kount’s rights, thereby infringing the ‘871 Patent. Such infringing products include ReputationManager, Device Reputation Authority and/or ReputationShield™.

17. Kount is informed and believes and on that basis alleges that iovation’s acts constitute direct and/or indirect infringement under 35 USC §§ 271(a), 271(b), and/or 271(c).

18. Kount is informed and believes and on that basis alleges that iovation has had and continues to have notice of the existence of the ‘871 Patent and despite such notice continues to willfully, wantonly and deliberately engage in acts of infringement as that term is defined in 35 USC § 271, without regard to the ‘871 Patent, and will continue to do so unless otherwise enjoined by this Court.

19. As a direct and proximate result of iovation’s infringement of the ‘871 Patent, Kount has suffered and will continue to suffer lost sales and damages. Under 35 USC § 284, Kount is entitled to damages to be established at trial or upon an accounting

adequate to compensate for the infringement, including lost profits, but not less than a reasonable royalty.

20. Kount is informed and believes and on that basis alleges that iovation's infringement of the '871 Patent is willful and wanton and with an intent to harm Kount. Therefore, this is an exceptional case and Kount is entitled to enhanced and increased damages under 35 USC § 284.

21. Kount is also entitled to an award equal to iovation's profits from the sale of iovation's infringing products, including ReputationManager, Device Reputation Authority and/or ReputationShield™, under 35 USC § 289.

22. This is also an exceptional case under 35 USC § 285, entitling Kount to an award of its reasonable attorney fees.

23. Kount has suffered and continues to suffer irreparable harm and injury as a result of iovation's unlawful infringing activities and is without an adequate remedy at law. Kount will continue to suffer such irreparable harm and injury unless iovation's infringing activities are preliminarily and permanently enjoined by this Court as provided by 35 USC § 283.

PRAYER FOR RELIEF

WHEREFORE, Kount prays for relief as follows:

1. For a preliminary and/or permanent injunction prohibiting iovation from offering for sale and/or selling products that infringe the '871 Patent, including but not limited to ReputationManager, Device Reputation Authority and/or ReputationShield™;
2. For an award of compensatory damages, including but not limited to Kount's lost profits, a reasonable royalty, and/or iovation's profits from the sale of iovation's

infringing products, including but not limited to ReputationManager, Device Reputation Authority and/or ReputationShield™;

3. For an award of enhanced and increased damages under 35 USC § 284;
4. For prejudgment interest as allowed by law;
5. For an award of attorney fees and costs and disbursements; and
6. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Kount requests a jury on all issues so triable.

DATED this 3rd day of March 2009.

MILLER NASH LLP

s/ M. Christie Helmer

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